



Kariuki (Suing as a Member of and in the Interest of a Group of Persons going by the Name Eintreten Association) v National Land Commission & 2 others (Environment and Land Constitutional Petition E006 of 2024) [2025] KEELC 7484 (KLR) (3 November 2025) (Judgment)

Neutral citation: [2025] KEELC 7484 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT AND LAND CONSTITUTIONAL PETITION E006 OF 2024
JA MOGENI, J
NOVEMBER 3, 2025

BETWEEN

JAMES GACHERU KARIUKI PETITIONER
SUING AS A MEMBER OF AND IN THE INTEREST OF A GROUP OF
PERSONS GOING BY THE NAME EINTRETEN ASSOCIATION

AND

THE NATIONAL LAND COMMISSION 1ST RESPONDENT
THE COMMISSION ON ADMINISTRATIVE JUSTICE 2ND RESPONDENT
KABALA TACHO ARERO 3RD RESPONDENT

JUDGMENT

1. This Judgment is in respect of the Petition dated 15/04/2024 supported by the Petitioner's Affidavit in support sworn on even date with the Authority of Members of Eintreten Association. Additionally, a Further Affidavit dated 27th March 2023 was filed.
2. The 1st Respondent was sued as a creature of Article 67 (1) of the *Constitution* of Kenya.
3. The 2nd Respondent is a body Corporate and a Creature of Article 59(4) of the *Constitution* and or Section 3 of *Acts No 23 of 2011*.
4. The 3rd Respondent is sued as a Public Officer who is the statutory information officer designate of the 1st Respondent.
5. The Petition relates to the right to information where the group of the Petitioner through a letter dated 27/07/2023 requested to be granted access to information held by the 1st Respondent in line with Articles 33 (1)a, 35 (1) (a) and Article 174 (c) of the *Constitution* and also in line with Article 10 (2)



(a) of the Constitution as read with provisions of Section 34 of the Land Registration Act, Section 4 (2) and (5) of the Access to Information Act, Section 80 of the Evidence Act read together with Section 10 of the Public Officer Ethics Act and Section 5(2) (h) of the Public Service Act No. 1A of 2015.

6. Accordingly, the Petitioners seek the following reliefs:

- a. A Declaration do issue that the provisions of Section 6(1) (d) of the Access to Information Act Cap 7M laws of Kenya and/or any other provisions of an Act of Parliament/or county assembly for that matter does not limit the requirement on public entities to grant access to information to citizens of Kenya and which granting of access to information is a requirement in line with Article 33(1)(a), 35(1) (a) & 174(c) of the Constitution of Kenya 2010 and/or in line with the provisions of Article 10(2)(a) of the Constitution of Kenya 2010 (the rule of law) as read with the provisions of Section 34 of the Land Registration Act Cap 280 laws of Kenya, Section 4(2) & (5) of the Access to Information Act Cap 7M laws of Kenya, Section 80 of the Evidence Act Cap 80 laws of Kenya read together with the provisions of section 10 of the Public Officer Ethics Act No. 4 of 2003 (construed with the alterations adaptations, qualifications and exceptions necessary to bring it into conformity with the Constitution of Kenya 2010) and/or section 5(2) (h) of the Public Service (Values and Principles) Act No. 1A of 2015 having had regard to the provisions of section 4(5) of the Act
- b. An order of judicial review in the nature of certiorari do issue removing into this Honorable Court the decision of the Commission on Administrative Justice dated 30th October 2023 and quashing it.
- c. A Declaration do issue that the groups of the Petitioners herein are each entitled to access to the information they sought on 27th July 2023 from the 1st Respondent herein as of a right.
- d. A Declaration do issue that the right of the groups of the Petitioners herein to Access to information under Article 35(1) (a) of the Constitution of Kenya 2010 and/or as conferred/ recognized by the provisions of section 4 of the Access to Information Act No 31 of 2016, section 34 of the Land Registration Act No 3 of 2012, section 80 of the Evidence Act Cap 80 laws of Kenya as read with the provisions of section 10 of the Public Officer Ethics Act No. 4 of 2003 and/or section 5(2)(h) of the Public Service (Values and Principles) Act No. 1A of 2015 and in line with the provisions of Article 19(3) (b) of the Constitution of Kenya 2010 has been infringed/denied/violated by the Respondents herein jointly or in the alternative.
- e. A Declaration do issue that the right of the group of the Petitioner herein to a Fair Administrative Action that is lawful, reasonable and procedurally fair under Article 47 of the Constitution of Kenya 2010 and/or as Conferred/Recognized by the provisions of section 4 of the Fair Administrative Actions Act No 4 of 2015 as read with the provisions of section 10 of the public officer ethics act no. 4 of 2003 section 5(2)(h) of the Public Service (Values and Principles) Act No. 1A of 2015 and in line with the provisions of Article 19(3)(b) of the Constitution of Kenya 2010 has been infringed/denied/violated by the Respondents herein jointly or in the alternative.
- f. A Declaration do issue that the right of the group of the Petitioner herein to the rule of law under Article 10(2)(a) of the Constitution of Kenya 2010 as conferred and/or recognized by the provisions of Sections 4 of the Access to Information Act No. 31 of 26, Section 34 of the Land Registration Act No 3 of 2012, Section 80 of the Evidence Act Cap 80 laws of Kenya, Section 4 of the Fair Administrative Action Act No 4 of 2015, as read with the provisions of Section 10 of the Public Officer Ethics Act No. 4 of 2003 (construed with the alterations adaptations, qualifications and exceptions necessary to bring it into conformity with the Constitution of



Kenya 2010) and/or section 5(2)(h) of the [Public Service \(Values and Principles\) Act](#) No. 1A of 2015 and in line with the provisions of Article 19(3)(b) of the [Constitution](#) of Kenya 2010 has been infringed/denied/violated by the Respondents herein jointly or in the alternative.

- g. A Mandatory injunction do issue Compelling the 1st Respondent herein to forthwith grant the groups of the Petitioners herein access to the information that they sought on 27th July 2023.
- h. AGgravated damages included in general damages individually for the infringement/denial/violation of the right(s) of the groups of the Petitioners under Articles 10(2) (a), 33(1)(a), 35(1) (a), 47 & 174(c) of the [Constitution](#) of Kenya 2010.
- i. Cost of the Petition and any other or further relief the honorable Court may deem fit to grant.

Petitioners' Case

- 7. The group of Petitioners through a letter dated 27/07/2023 requested to be granted access to information held by the 1st Respondent. The letter was received by the 1st Respondent on 31/07/2023 but the 3rd Respondent did not acknowledge receipt of the letter and after 21 days the group of Petitioners took action. The group of Petitioners on 12/10/2023 applied to the 2nd Respondent for review of the decision of the 1st and 3rd Respondents of rejecting an application for information.
- 8. The group of Petitioners aver that the 2nd Respondent made its quasi-judicial decision that the requisitioned information borders on the intrusion of privacy of other persons and which privacy is protected by the provisions of Article 31 (c) of the [Constitution](#) and the Data Protection Act.
- 9. It is the contention of the Petitioners that the quasi-judicial decision dated 30/10/2023 erred in law and in fact by finding that the group of Petitioners need Court intervention to advance its cause citing Section 6 (1) (d) of the [Access to Information Act](#).
- 10. The group of the Petitioner vide a letter dated 12/10/2023 to the 2nd Respondent sought to have the decision of the 1st and 3rd Respondents rejecting an application for information reviewed.
- 11. The Petitioners main grievance is on the Respondents' failure to provide information about all grants and disposition of public land which according to the group of the Petitioner require public participation and dissemination of information to the people. According to the group of Petitioner, the function of the 2nd Respondent is to develop and maintain effective land information system for the management of public land in accordance with the provisions of Section 5 (2) (d) of the [National Land Commission](#).
- 12. It is the group of Petitioner contention that the 2nd Respondent failed to appreciate that fact that the information sought by them consists of some of the information that requires being published and publicized in accordance with the provisions of Section 33 (2) of the [National Land Commission Act](#) Cap 281 Laws of Kenya and in line with Article 35 (3) of the [Constitution](#).
- 13. The group of Petitioner has spelt out the right of the Petitioners that is alleged to have been infringed as the right to information as provided under Article 35 and Article 33 (1) of the [Constitution](#), right to education as provided under Article 43 (f) of the [Constitution](#), right to Fair Administrative Action as provided under Article 47 of the [Constitution](#) and violation to the right to self-governance by denying the group of Petitioner information to enhance this right as provided under Article 174(c) of the [Constitution](#) among others.
- 14. The Respondents actions are also argued to be contrary to the rule of law as espoused under Article 10 of the [Constitution](#). Similarly, that Articles 68(c) v of the [Constitution](#) stated that all grants and



disposition of public land should be with the participation of the people in line with Article 10(2) and also read with *National Coordination Act* Cap 127, Section 10 of the *Public Officers Ethics Act* Cap 185 B and Section 5 (2) (h) of the *Public Officer (Values and Principles) Act* Cap 185 A and Article 19 (3) (b) of the *Constitution*.

15. The group of Petitioners averred that the information sought from the 1st Respondent is in relation to title(s) to land and/or Land Administration and Management in Kiambu County effective 27/08/2010.

Respondents' Case

16. The 1st and 3rd Respondents, filed joint Grounds of Opposition dated 14/11/2024.
17. He contested that the Petition in its entirety does not disclose any cause of action since there is no degree of specificity on the alleged violation. Further that the requisitioned documents do not constitute public documents capable of disclosure to the Petitioner as they strictly involve transactions between private persons entities.
18. According to the 1st and 3rd Respondents, the disclosure of the requisitioned documents will amount to a violation of the right to privacy of the registered proprietors as envisaged under Article 31 of the *Constitution* of Kenya 2010 and Section 6(1) (d) of the *Access to Information Act* 2016.
19. It is therefore the averment of the 1st and 3rd Respondents that they are non-suited since they do not hold or keep any records and most specifically title instruments, agreements or any other records requisitioned by the Petitioner for their inspection.
20. They contend that the 1st and 3rd Respondents cannot act in furtherance of the Petitioner's requisition since its mandate for review of Grants and disposition established by the Statutes has since expired by operation of the Law and that in any event, the Commission on Administrative Justice addressed the Petitioner's complaint appropriately.
21. In their Grounds of Opposition, the 1st and 3rd Respondents stated that the Petitioner's cause of Action is unmaintainable as against them and the prayers sought are not available to or enforceable by the Petitioner as against the 1st and 3rd Respondents thus most specifically the suit against the 1st and 3rd Respondents is misconceived, and an abuse of the Court process and the same ought to be dismissed with costs.
22. It is their observation that no orders are capable of being granted or enforceable against the 1st and 3rd Respondents.
23. The second Respondent did not file any response.
24. The Petition was canvassed by way of written submissions and the Court issued directions on filing of submissions on 21/05/2025. During the Mention on 26/06/2025 with all parties in attendance, the Court reserved a Judgment date.

Submissions

Petitioner's Submissions

25. The Group of Petitioner filed their submissions dated 18/03/2025 and submitted that according to them this is a straight forward matter where they sought to be granted access to information contained in public documents in the custody of the 1st Respondent and where the 2nd Respondent as the statutory information officer designate of the 1st Respondent neglected, ignored and/or refused to



- grant the requisitioned access and misdirected themselves by finding that the information is likely to involve the unwarranted invasion of the privacy of an individual other than the group of persons of the Petitioner hence limited from disclosure by virtue of Section 6 (1) (d) of the [Access to Information Act](#).
26. The group of Petitioners submit further that they applied for review of the decision by the 1st and/or 3rd Respondents so that they can allow them access the information but their application was rejected. They submit that a comprehensive list of all agreements, deeds, conveyance or documents of whatever nature in any interest in public land, grants and/or dispositions in Kiambu County including the names and addresses of registered proprietors as at 27/08/2010 are documents of official bodies (Public Documents) in accordance with the provisions of Section 79(1) (a) (ii) of the [Evidence Act](#) Cap 80 Laws of Kenya.
 27. According to the group of Petitioner, that a comprehensive list of all agreements, deeds, conveyance or documents of whatever nature in any interest in public land, grants and/or dispositions in Kiambu County including the names and addresses of registered proprietors whose grants and/or disposition have been reviewed in line with the provisions of Article 68(c) (v) of the [Constitution](#) of Kenya 2010 as read with the provisions of section 14 of the [National Land Commission Act](#) Cap 281 laws of Kenya including those renewed effective from 28/09/2010 including names and addresses of registered proprietors approved by the Commission (1st Respondent herein) effective 28th August 2010 are documents of official bodies (Public Documents) in accordance with the provisions of section 79(1) (a)(ii) of the [Evidence Act](#) Cap 80 laws of Kenya.
 28. The group of Petitioner further submits that public documents are to be disclosed to Kenyan citizens as of a right upon request in line with the provisions of Articles 33(1)(a), 35(1)(a) & 174(c) of the [Constitution](#) of Kenya 2010 and in accordance with the provisions of Section 80 of the [Evidence Act](#) Cap 80 Laws of Kenya as read with the provisions Section 4(5) of the [Access to Information Act](#) Cap 7M Laws of Kenya read together with the provisions of Section 10 of the [Public Officer Ethics Act](#) Cap 185B Laws of Kenya.
 29. They further submitted that 1st and 3rd Respondents and 3rd Respondent being the statutory information officer designate of the 1st Respondent did not grant access to the information requisitioned in writing within 21 days as required of them jointly or in the alternative by the provisions of Section 9(1) of the [Access to Information Act](#) Cap 7M Laws of Kenya and the 2nd Respondent made matters even more worse by misdirecting itself that public documents are private documents not capable of disclosure without a Court order.
 30. That in refusal to grant the requested information, the 2nd Respondent affirmed the decision of the 1st and/or 3rd Respondent of refusing to grant access to information requisitioned in writing, and thus infringed/denied/violated the right of the group of the Petitioner to Access to Information under Article 35(1)(a) of the [Constitution](#) of Kenya 2010 and/or as recognized/conferred by the provisions of Section 4(3) & (5) of the [Access to Information Act](#) Cap 7M Laws of Kenya.
 31. The group of Petitioner relied on the case of [Anarita Karimi Njeru v Republic](#) [1979] eKLR through judicial intervention in [Simeon Kioko Kitbeka & 18 Others Versus the County Government of Machakos & 2 Others](#) (2018) eKLR where the Court found and held as follows:

“As regards precision in the pleadings, it is my view that where it is apparent to the Court that the bill of rights has been or is threatened with contravention, to avoid to enforce the bill of rights on the grounds that the supplicant for the orders has not set out with reasonable degree of precision that of which he complains has been infringed, and the manner in which they are alleged to be infringed, where the Court can glean from the pleadings the substance



of what is complained, to dismiss the Petition on the ground of lack of precision would amount to this Court shirking from its constitutional duty of granting relief to deserving persons and to sacrifice the Constitutional Principles and the Dictates of the rule of law at the altar of procedural issues, where there is conflict between procedural dictates and constitutional principles especially with respect to the provisions relating to the bill of rights it is my view and I so hold that the latter ought to prevail over the former.”

32. It is the group of Petitioner’s point of view that the issue of particularization of violation or infringement of rights does not supersede the Constitutional principles since this would be like choosing procedure of Constitutional principles. Further that the violation of a Constitutional right or fundamental freedom should not be treated as a petty infraction of law; Constitutional rights are protections and liberties that the supreme law of this country guarantees each person and therefore must be accorded the highest regard by all.
33. On the issue of reliefs sought the group of Petitioner submitted that the availability of the reliefs sought and more specifically order of Judicial Review in the nature of Certiorari which requires removing into this Honorable Court the decision/advice of the decision/advice of the 2nd Respondent herein dated 30th October 2023 and quashing it, is a provision provided for by the Constitution where administrative law actions and remedies are covered in the provisions of Article 47 of the Constitution. According to the Petitioner this forms part of the bill of rights.
34. Further they stated that it is safe to state that there is now substantive Constitutional Judicial Review when one reads Article 47 as to the right to Fair Administrative Action alongside Article 23(3) which confers jurisdiction on the Court hearing an application for redress of a denial or violation of a right or freedom in the bill of rights, to grant by way of relief an order for Judicial Review.
35. That Order 53 of the Civil Procedure Rules do not consequently apply to Constitutional Petitions where the Court is expected to exercise a special jurisdiction which emanates from the Constitution and not a Statute. And in line with the provisions of Article 249(2) (a) & ((b) of the Constitution of Kenya 2010, the 1st & 2nd Respondents are only subject to the Constitution and law and are independent and not subject to direction or control by any person or authority while exercising the powers and performing their functions and which does not mean they are not subject to Court processes where their actions/decisions may be challenged and appropriate orders issued.
36. That from the 2010 Constitutional Order, Public Officers e.g. the 3rd Respondent are required to be bound by the rule of law as a National Value and Principle of Governance under Article 10(2)(a) of the Constitution of Kenya 2010, Public Officers e.g. the 3rd Respondent herein have a responsibility to be accountable to the public (including public coffers emphasis added) for decisions and actions under Article 73(2)(d) of the Constitution of Kenya 2010 and lastly public officers such as the 3rd Respondent who ought to be bound by the values and principles of public service of accountability for administrative acts (in this case the administrative acts in the office of a statutory information officer designate of the 1st Respondent) under Article 232(1)(e) of the Constitution of Kenya 2010.
37. According to the group of Petitioner, Article 10(2)(d) 73(2)(d) & 232(1) (e) of the Constitution of Kenya are rights conferred and/or recognized by the provisions of Section 10 of the Public Officer Ethics Act Cap 185B laws of Kenya.

1st and 3rd Respondents’ Submissions

38. The 1st and 3rd Defendants filed their submissions dated 23/06/2025 and identified the following as the issues which they submitted on. The issues identified by the 1st and 3rd Respondents are:



- i. Whether the Petitioner’s claims are sufficiently precise and substantiated to warrant constitutional relief.
 - ii. Whether the requisitioned documents qualify as "public documents" under
 - iii. Section 79 of the *Evidence Act*, Cap 80 and the disclosure thereof would}} unlawfully infringe on the privacy rights of third parties under Section 6(1)(d) of the *Access to Information Act*, 2016.
 - iv. Whether the Petitioner’s right to access information under Article 35(1)(a) of the *Constitution* and right to *Fair Administrative Action* (Article 47 of the *Constitution* of Kenya) have been infringed.
 - v. Whether the Petitioners are entitled to the reliefs sought.
39. On the first issue they submitted that the Petition in its entirety does not disclose any cause of action since there is no degree of specificity on the alleged violation. That the Petition vaguely refers to “comprehensive lists of agreements, deeds and dispositions” without particulars such as title numbers, grants numbers or even the names of the proprietors they seek. Thus the Petition fails to meet the threshold set in *Anarita Karimi Njeru v Republic* (1979)eKLR for Constitutional Petitions.
40. Equally the 1st and 3rd Respondent referred the Court to the case of *Judicial Service Commission v Gladys Boss Shollei & Another* (2014)eKLR where the Court held that a Constitutional Petition alleging violation of rights ought to define the dispute to be decided with particularity and reasonable precision. They further stated that the Petition herein contradicts Section 8(1) of the *Access to Information Act* which clearly states that;
- “An application to access information shall be made in writing in English or Kiswahili and the Applicant shall provide details and sufficient particulars for the public officer or any other official to understand what information is being requested.”
41. So according to the submissions of the 1st and 3rd Respondents, there being no specificity in the request of the documents sought by the Petitioner and the particulars then the Petition ought to fail in its entirety.
42. On the second issue; the 1st and 3rd Respondents have submitted that the information that the group of Petitioner was seeking from them are documents of official bodies and as such they are public documents in accordance with the provisions of Section 79 (1)(a)(ii) of the *Evidence Act* Cap 80 Laws of Kenya. At the same time, they submitted that what is being sought by the Petitioners does not form public documents as it involves disclosure of private details of individuals. They gave the example of proprietors addresses which would amount to invasion of privacy and hence divulging such information would be contravening Section 6 (1)(d) of the *Access to Information Act*.
43. They further submit that the right to information has its limitations especially where it involves Names and addresses of proprietors which are protected under Article 31 of the *Constitution* of Kenya and third-party contractual details which are exempt under Section 6(1)(d) of the *Access to Information Act*. That whilst land records are generally public under Section 34 of the *Land Registration Act*, personal



details for example addresses, private transactions are protected under Section 6(1)(d) of the [Access to information Act](#) which states that:

“(1) Pursuant to Article 24 of the [Constitution](#), the right of access to information under Article 35 of the [Constitution](#) shall be limited in respect of information whose disclosure is likely to—

(d)involve the unwarranted invasion of the privacy of an individual, other than the Applicant or the person on whose behalf an application has, with proper authority, been made;”

44. They equally stated that the right to privacy has been protected in the [Constitution](#) of Kenya 2010 which is the supreme law of the Land under Article 31 (c). The said Article clearly states that;

“Every person has the right to privacy, which includes the right not to have information relating to their family or private affairs unnecessarily required or revealed.”

45. According to the 1st and 3rd Respondents, not all land documents are public documents as pleaded by the Petitioner and most specifically the requisitioned documents as has been demonstrated by the 1st and 3rd Respondents. That where such documents amount to invasion of privacy of an individual then they cease to be public documents. They further stated that the 1st Respondent is not the custodian of the requisitioned documents both in law and practice and the said request ought to have been directed to the Registrar of Titles.

46. On the third issue, they submitted that the right to access of information has not been infringed by the 1st and 3rd Respondents since they have clearly demonstrated that the right to access to information as envisaged in the [Constitution](#) is not an absolute right as was held in the case of *Jack Mukhango & 12 Others v The Attorney General, IEBC & Director of Public Prosecutions* [2017] eKLR. The principle emphasized by the Honourable Judge in the said case is that Section 6 of the [Access to Information Act](#) provides Limitations, including where disclosure would involve an unwarranted invasion of Privacy.

47. It is their case that the Court must strike a balance between public interest in transparency and the protection of private rights. That the mere classification of a document as ‘public’ under the [Evidence Act](#) does not automatically override legitimate privacy concerns. The Petitioner must demonstrate that the requested information serves a compelling public interest that outweighs potential harm to third-party privacy. Accordingly, they submitted that the Petitioner has clearly not demonstrated that the information sought serves a compelling public interest that outweighs potential harm to third-party privacy. That from their view point, the information sought does more harm to third-party privacy vis-à-vis public interest.

48. The 1st and 3rd Respondents further submitted that in the instant case the Petitioners claim to have instituted the Petition in the public interest, and so it is necessary to demonstrate that the benefits or the remedies sought in the litigation would accrue to the public at large. That this has not been demonstrated in the present Petition hence the Respondents pray that it should be dismissed.

49. It is their submission that Article 24 of the [Constitution](#) allows for limitation of rights and fundamental freedoms. However, they further state that any limitation must be by law and must be reasonable and justifiable. In the case of *Timothy Njoya v Attorney General & Another* (2014)eKLR the Court held that the Petitioner had not demonstrated how his right to information had been infringed as it was difficult to determine the form and the nature of the information sought.



50. At the same time, they submitted that it is in the same case where the Court was of the opinion that the state is mandated to disclose the information it holds but this has to be considered in terms of nature and form in which it is sought and there should be clear set out parameters within which information access can be restricted which parameters are to be justifiable and in line with the constitutional limitations. It is their submission that the information sought involves infringement of privacy of individuals and the same is protected both in the Constitution and the Access to Information Act. So, the restriction is justifiable and the right to information pertaining the Petitioner has not been infringed.
51. The 1st and 3rd Respondents submitted that Article 31 of the Constitution of Kenya 2010 clearly states that every person has a right to privacy, including protection to personal data. Therefore, divulging such information would amount to infringement of privacy of private individuals. This extend to land ownership details (names, addresses) which are prima facie private unless shown to serve public interest. That in the case of Commissioner of Lands v Kunste Hotel Limited [1995]eKLR it was held that not all land registry documents are automatically public. Proprietors' personal data enjoys protection.
52. With regard to the Right to Fair Administrative Justice, they submitted that the Petitioner has failed to demonstrate how that right has been infringed by the Respondents herein. That they submit that the 1st and 3rd Respondents could not act in furtherance of the Petitioner's requisition since its mandate for review of grants and disposition established under Article 68 (c)(v) of the Constitution and Section 14 of the National Land Commission Act is time bound. That the Petitioners request to the 1st and 3rd Respondents falls outside the statutory review period and or mandate. Further the Petitioner seeks documentation of transactions that took place way before the Commission came into existence. In any event they submit that the Commission on Administrative Justice addressed the Petitioner's complaint appropriately.
53. Therefore, the claim by the Petitioner that the Respondents have allegedly infringed on his right to Fair Administrative Action under Article 47 of the Constitution by rejecting and or refusing to grant the Petitioner access to information requisitioned is misplaced as the 2nd Respondent clearly indicated to the Petitioner that such information would involve unwarranted invasion of privacy of individuals which would be in contravention to Article 6 (1)(d) of Access to Information Act.
54. According to the 1st and 3rd Respondent the Petition/Suit is a clear abuse of the Court process as it attempts to the Court process to circumvent the 2nd Respondent's lawful decision under the Access of Information Act which advised the Petitioner to seek a Court order for disclosure.
55. It is the contention of the 1st and 3rd Respondents that the group of Petitioner does not deserve the reliefs sought. They have relied on the cases of Republic v Public Procurement Administrative Review Board; Principal Secretary, State Department of Interior, Ministry of Interior and Co-ordination of National Government (Interested Party); Ex parte Applicant CMC Motors Group Limited; Republic v Public Procurement Administrative Review Board; Principal Secretary, State Department of Interior; Ex Parte CMC Motors Group Ltd [2020] eKLR; Republic v National Employment Authority & 3 others Ex-parte Middle East Consultancy Services Limited (2018) eKLR; and Shiverenje Simani v Star Newspaper & another [2021] eKLR. It is the submission of the 1st and 3rd Respondents that the Petitioner is not entitled to the Judicial Review orders sought. The decision by the 2nd Respondent was made within the prescribed period and reasons provided as to why the nature of his request could not be granted. Further that the general, exemplary and aggravated damages sought by the Petitioner should not be awarded since no quantifiable harm has been demonstrated by the Petitioner.
56. The 2nd Respondent filed their submission dated 7/05/2025 and identified the following as issues:
- i. Whether the information requested by the Petitioner is limited?



- ii. Whether the right to fair administrative action was violated?
 - iii. Whether the decision of the 2nd Respondent dated 30th October 2023 should be quashed?
57. On the first issue whether the requested information is limited, the 2nd Respondent stated that The *Access to Information Act* was enacted to give effect to Article 35 of the *Constitution* and that it a normative derivative of the right to access to information under Article 35.
58. It is however their submission that the right to access information is not an absolute right as guided and listed in Article 25 of the *Constitution* that it is not in the category of rights that cannot be limited. Further that it is the *Constitution* that expressly provides the standards for justifiable limitation of Constitutional rights. Article 24 provides a clear criterion that must be met by each limitation before it can be allowed to stand. Article 24 states thus;
- “ 1) A right or fundamental freedom in the Bill of Rights shall not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. taking into account all relevant factors. Including;
- a. the nature of the right or fundamental freedom;
 - b. the importance of the purpose of the limitation;
 - c. the nature and extent of the limitation;
 - d. the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and
 - e. the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.”
59. The Respondent gave a detailed treatise on limitation of rights as provided under Article 24 to justify the action of the 2nd Respondent towards the request of the Petitioner. It was their submission that limitation of a right should be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. This is done through consideration of factors listed in Article 24(1), including:
- “(a) the nature of the right or fundamental freedom:
 (b) the importance of the purpose of the limitation:
 (c) the nature and extent of the limitation:
 (d) the need to ensure that the enjoyment of the rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others,' and
 (e) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.”
60. The 2nd Respondent relied on the cases of *Jack Mukhango & 12 Others v The Attorney General, Independent Electoral and Boundaries Commission and Director of Public Prosecutions* [2017] eKLR. From the analysis of this case the 2nd Respondent submits that the right of access to information under



Article 35 of the Constitution is a right that can be limited under Article 24 of the Constitution and based on law which is Access to Information Act, 2016. That the Access to Information Act contains an express provision in which the right to access of information is limited. The 2nd Respondent also relied on the case of Nairobi Law Monthly v Kenya Electricity Generating Company & 2 Others [2013] eKLR as referred to in the decision of Jack Mukhango & 12 Others v The Attorney General, Independent Electoral and Boundaries Commission and Director of Public Prosecutions (*supra*) including the case of Supreme Court stated in Re The Matter of Interim Independent Electoral and Boundaries Commission referred to by the High Court in the same judicial decision.

61. Further the 2nd Respondent in submission elaborated on the Access to Information Act, 2016 and its limitations. It is submitted that Section 6 (1) (d) of the Access to Information Act provides that: Pursuant to Article 24 of the Constitution, the right of access to information under Article 35 of the Constitution shall be limited in respect of information whose disclosure is likely to involve the unwarranted invasion of the privacy of an individual, other than the Applicant or the person on whose behalf an application has, with proper authority, been made.
62. Further that Section 6 (1) (d) as read together with Article 24 limits the right of access to information of the Petitioner in this instant matter. That therefore the information requested would involve unwarranted invasion of the privacy of an individual other than the Applicant. Further Article 31 of the Constitution of Kenya provides the right to privacy of every person.
63. They submitted that the Commission in arriving in its decision, was guided by the interpretation Section of the Access to Information Act, 2016 in particular, Section 2 of the aforementioned Act provides that:
 - a. Information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, age, physical, psychological or mental health, well- being, disability, religion, conscience, belief culture, language and birth of the individual,'
 - b. information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,'
 - c. any identifying number, symbol or other particular assigned to the individual,'
 - d. the fingerprints, blood type, address, telephone or other contact details of the individual;
 - e. a person's opinion or views over another person
 - f. correspondence sent by the individual that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
 - g. any information given in support or in relation to an award or grant proposed to be given to another person;
 - h. contact details of an individual.
64. According to the 2nd Respondent, and based the above submitted information the Commission made reliance on the nature of the requested information including information on 'names and addresses of registered proprietors' which from the interpretation section of the Access to Information Act, 2016 constitutes personal information.



65. Therefore, on this second issue the Commission (2nd Respondent) submits that the Petitioner does not have the requisite authority to be granted access to information as required by Section 6 (1) (d) of the [Access to Information Act](#), 2016 and the Petitioner was duly advised by the Commission to seek the authority to access such information in this case being a Court order.
66. On the third issue the 2nd Respondent submits that contrary to the Petitioner's allegation that the Commission violated his right to Fair Administrative Action as provided in Article 47 of the [Constitution](#) by failing to compel the 1st Respondent to provide and/or furnish the information that was requested by the Petitioner it is its position that it did perform its duties as provided for under Section 4(1) of [Fair Administrative Action Act](#), 2015 which states as follows;
- “Every person has the right to administrative action which is expeditious, efficient; lawful, reasonable and procedurally fair.”
67. The Commission submits that the application of review lodged to the Commission by the Petitioner was lodged through a letter dated 12th October 2023 and the Commission responded to the Petitioner's application through its decision dated 30th October 2023. That this is in accordance to Section 14(1) (a) of the [Access to Information](#), 2016, which requires that one investigates the nature of the application lodged and the nature of the information that was requested.
68. It is the contention of the Commission that it acted promptly on the Petitioner's application within two weeks and gave the appropriate advice and guidance in accordance with the law and thus cannot be said to have violated the Petitioner's right to Fair Administrative Action. The two weeks' action on the part of the Commission can be said to have acted within the provisions of Section 4 (1) of the [Fair Administrative Action Act](#), 2015.
69. To lend credence to this point the Commission relied on the High Court case of [Joseph Mbalu Mutava v Attorney General & Another](#) [2014] eKLR.
70. On the fourth issue seeking quashing of the decision of the 2nd Respondent they referred to the definition of Administrative Action as defined by Black's Law Dictionary, the 11th Edition which defines it as a decision or an implementation relating to government's executive function. Further, the [Commission on Administrative Justice Act](#), 2011 under Section 2 has provided what constitutes of an administrative action as follows;
- “Administrative Action means any action relating to matters of administration and includes a decision made or an act carried out in the public service; a failure to act in discharge of a public duty required of an officer in public service; the making of a recommendation to a Cabinet Secretary; or an action taken pursuant to a recommendation made to a Cabinet Secretary.”
71. They also referred to the [Fair Administrative Action Act](#), 2015 which defines administrative action to include:
- “The powers, functions and duties exercised by authorities or quasi-judicial tribunals; or any act, omission or decision of any person, body or authority that affects the legal rights or interests of any person to whom such action relates.”
72. They relied on the cases of High Court Case or [Coast LegalAid & Resource Foundation \(CLARF\) v Coast Water Board Services & 2 others](#) [2021] eKLR. The 2nd Respondent submits that an administrative decision can only be quashed and overturned by a Court, if it is found to be illegal,



irrational, or procedurally improper. Specifically, this includes instances where the decision-maker acts outside their powers, fails to follow proper procedures, or considers irrelevant factors or ignores relevant one. The 2nd Respondent further relied on the Court of Appeal case of the *Judicial Service Commission v Shollei & Another* (Civil Appeal 500(2014) [2014] KECA 334 (KLR) (19 September 2014) (Judgment) where the Court of Appeal referred to the Ugandan case of (*Pastoli v. Kabale District Local Government Council and Others* [2008]2 EA 300 in its decision.

73. It is the 2nd Respondent's submission that guided by the above-referenced case then the Petitioner in these proceedings must show to the Court that the Commission's decision or act complained of is tainted with illegality, irrationality and procedural impropriety. Further it submits that the Commission in arriving to its decision dated 30th October 2023, the Commission was guided by both the Constitution and the Access to Information Act, 2016.
74. According to the 2nd Respondent, Article 31 (c) of the Constitution has envisaged as already stated that:
- “Every person has the right to privacy, which includes the right not to have information relating to their family or private affairs unnecessarily required or revealed.”
75. The Commission urges this Court not to issue an Order of Certiorari by quashing the Commission's decision dated 30th October 2023 and urges the Court to dismiss the Petitioners' Petition with costs to the 2nd Respondent for the reasons stated and highlighted above with costs.

Analysis and Determination

76. Having read through the parties' pleadings and submissions, it is my considered view that the issues that arise for determination are as follows:
- i. Whether the Respondents violated the Petitioners' right to access information as envisaged under Article 35 of the Constitution
 - ii. Whether the Petitioners are entitled to the reliefs sought.

Whether the Respondents violated the Petitioner's right to access information as envisaged under Article 35 of the Constitution

77. The right to access information is provided for in the Constitution under Article 35. It provides as follows:
1. Every citizen has the right of access to—
 - a. information held by the State; and
 - b. information held by another person and required for the exercise or protection of any right or fundamental freedom.
 2. Every person has the right to the correction or deletion of untrue or misleading information that affects the person.
 3. The State shall publish and publicise any important information affecting the nation.
78. To give effect to this right, the Access to Information Act (No 31 of 2016) was enacted. This Act in essence provides the process to be followed in order to obtain information held by the State or another person. Section 4 provides as follows:



1. Right to information subject to this Act and any other written law, every citizen has the right of access to information held by—
 - a. the State; and
 - b. another person where that information is required for the exercise or protection of any right or fundamental freedom.
 2. Subject to this Act, every citizen's right to access information is not affected by—
 - a. any reason the person gives for seeking access; or
 - b. the public entity's belief as to what the person's reasons are for seeking access.
 3. Access to information held by a public entity or a private body shall be provided expeditiously at a reasonable cost.
 4. This Act shall be interpreted and applied on the basis of a duty to disclose and non-disclosure shall be permitted only in circumstances exempted under section 6.
 5. Nothing in this Act shall limit the requirement imposed under this Act or any other written law on a public entity or a private body to disclose information.
79. The exemptions under Section 6 (1) of the *Act* are as follows:
- “Pursuant to Article 24 of the *Constitution*, the right of access to information under Article 35 of the *Constitution* shall be limited in respect of information whose disclosure is likely to—
- a. undermine the national security of Kenya;
 - b. impede the due process of law;
 - c. endanger the safety, health or life of any person;
 - d. involve the unwarranted invasion of the privacy of an individual, other than the Applicant or the person on whose behalf an application has, with proper authority, been made;
 - e. substantially prejudice the commercial interests, including intellectual property rights, of that entity or third party from whom information was obtained;
 - f. cause substantial harm to the ability of the Government to manage the economy of Kenya;
 - g. significantly undermine a public or private entity's ability to give adequate and judicious consideration to a matter concerning which no final decision has been taken and which remains the subject of active consideration;
 - h. damage a public entity's position in any actual or contemplated legal proceedings; or
 - i. infringe professional confidentiality as recognized in law or by the rules of a registered association of a profession.”



80. A person seeking to access information held by the State or private body is in the first instance required to address the request to the designated officer under Section 7 of the Act and the request is made on an application under Section 8 (1) which provides details and sufficient particulars for the public officer to understand extent and nature of the information requested.
81. The Public Officer will under Section 9 process the application and make a decision on the application as soon as possible. Where the Applicant does not receive a response to an application within the period stated in Subsection (1), the application is deemed to have been rejected as provided under Section 9 (6) of the Act.
82. The Supreme Court in Njonjo Mue & Another Independent Electoral and Boundaries Commission & 3 Others (Election Petition 4 of 2017) [2017] KESC 28 (KLR) affirmed the right of access to information by stating thus:
- “(13)Article 35(1)(a) and (b) of the Constitution, read with Section 3 of the Access to Information Act would thus show without equivocation that all citizens have the right to access information held by the state, or public agencies including bodies such as the 2nd Respondent ...”
83. Likewise, the Court of Appeal in Timothy Njoya v Attorney General & Another (2014) eKLR held thus:
- “Still, we entertain no doubt that the right to information is critical to the attainment of transparent and accountable government and is an enabler to the exercise and enjoyment of other rights by citizens This means, simpliciter that no law supersedes the Constitution and that therefore, the law-making freedom of Parliamentary cedes to the requirements and precepts of the Constitution. It follows that any interpretational approach, no matter how esoteric and esteemed its source, must pass muster the principles set out in Articles 259 and 10 of the Constitution.”
84. This right has also been discussed by the High Court on numerous occasions. In Katiba Institute (*supra*) the Court noted as follows:
- “the Constitution is therefore clear that information held by the state is accessible by citizens and that information is available on request. What this means is that once a citizen places a request to access information, the information should be availed to the citizen without delay. Article 35 of the Constitution does not in any way place conditions for accessing information. The most important thing is that information be in possession of the state, state officer or public body... It is important to note here that the right to information is not affected by the reason why a citizen seeks information or even what the public officer perceives to be the reason for seeking information. This reinforces the fact that Article 35 does not in any way limit the right to access information... The...consideration to bear in mind is that the right to information implies the entitlement by the citizen to information, but it also imposes a duty on the State with regard to provision of information. Thus, the State has a duty not only to proactively publish information in the public interest-this, I believe, is the import of Article 35(3) of the Constitution of Kenya which imposes an obligation on the State to ‘publish and publicise any important information affecting the nation’, but also to provide open access to such specific information as people may require from the State ...”



85. Likewise, in *Khalifa & Another (Interested Party)* (Judicial Review 4 of 2020) and *Kbelef Khalifa & 2 Others v Independent Electoral and Boundaries Commission* it was held that:

“A reading of the provisions of *Access to Information Act* leaves no doubt that the Act was enacted to give effect to the constitutional right of access to any information held by the State. And the formulation of the sections casts the exercise of this right in peremptory terms – the requester must be given access to the information so long as the request does not fall within the exceptions in section 6 of the act. Under our law, therefore, the disclosure of information is the rule and exemption from disclosure is the exception.”

86. A reading of Section 6 reveals that there are reasonable and justifiable limitations on the right of access to information. The purpose of Section 6 is to protect from disclosure certain information that, if disclosed, could cause material harm to, amongst other things: the defence, security and international relations of the Republic; the economic interests and financial welfare of the Republic and commercial activities of public bodies; and the formulation of policy and taking of decisions by public bodies in the exercise of powers or performance of duties conferred or imposed by law.

87. However, the burden of establishing that the refusal of access to information is justified rests on the state or any other party refusing access. As was held in *President of the Republic of South Africa & Others v M & G Media Limited* CCT 03/11 [2011] ZACC 32:

“The imposition of the evidentiary burden of showing that a record is exempt from disclosure on the holder of information is understandable. To place the burden of showing that a record is not exempt from disclosure on the requesting party would be manifestly unfair and contrary to the spirit of... the *Constitution*. This is because the requester of information has no access to the contents of the record sought and is therefore unable to establish that it is not exempt from disclosure under the Act. By contrast, the holder of information has access to the contents of the record sought and is able to establish whether or not it is protected from disclosure under one or more of the exemptions ... Hence ...the evidentiary burden rests with the holder of information and not with the requester.”

88. In order to discharge its burden under Section 6, the state must provide evidence that the record in question falls within the description of the statutory exemption it seeks to claim.... Any restriction on information that a government seeks to justify on any grounds including the reason of national security must have the genuine purpose and demonstrable effect of showing that the restriction is justified. To establish that a restriction on access to information is necessary to protect a legitimate interest, a government must demonstrate that:

- a. the expression or information at issue poses a serious threat to a legitimate national security interest;
- b. the restriction imposed is the least restrictive means possible for protecting that interest; and
- c. the restriction is compatible with democratic principles.

89. It is a matter of fact, that the Petitioners wrote to the 2nd Respondent seeking to be supplied with information on the grants made of public land in Kiambu County at the advent of the new Constitution. Whereas the 2nd Respondent claimed to have responded to within the required time-frame as provided by law, the Petitioner was not provided with the requisite information. As a matter of fact, the 2nd Respondent has for example stated that if the Petitioner needed the information sought, they should seek a Court order.



90. The information sought from the 1st Respondent, the National Land Commission Kenya's *vide* the letter dated 27/07/2023 did not elicit any response. That this is why the Petitioners sought the intervention of the Commission on Administrative Justice to no avail. This assertion is not disputed by the 2nd Respondent although they have referred to their constitutive Act and submitted that the information sought required a Court order as stated above.
91. It is through the letter dated 27/07/2023 that the Petitioner made the request to be granted access to information held by the 1st Respondent. Despite the letter having been received by the 1st Respondent on 31/07/2023 the 3rd Respondent did not acknowledge receipt of the letter and after 21 days the group of Petitioners took action. The group of Petitioners on 12/10/2023 applied to the 2nd Respondent for review of the decision of the 1st and 3rd Respondents of rejecting an application for information.
92. On their part, the 2nd Respondent readily admits the receipt of the letter by the Petitioners seeking the said information and does not deny the claim that the Commission on Administrative Justice had attempted to intervene but the information was not supplied prompting the filing of this Petition.
93. The 2nd Respondent submitted that The [Access to Information Act](#), 2016 is a normative derivative of the right to access to information under Article 35. Now, from my opinion which is informed by many judicial precedents from our Courts, the fact that the [Access to Information Act](#), 2016 is a normative derivative of the right to access information under Article 35 of the [Constitution](#) of Kenya does not bar the public from accessing information on public land and who the grantees or beneficiaries are from the said allotments. On the contrary, the Act was specifically passed to facilitate and create a framework for Kenyans to enjoy this Constitutional right, promoting transparency and accountability in public entities.
94. I am aware that the [Constitution](#) of Kenya was promulgated on August 27, 2010. While the [Constitution](#) provided for the establishment of the National Land Commission (NLC) under Article 67, the Commission was not immediately operational. On 2/05/2012 the [National Land Commission Act](#), 2012, which operationalized the NLC, commenced and on 23/02/2013 the first group of NLC Commissioners was gazetted and began their work.
95. Despite the late start, that does not mean that there was a vacuum we had before the NLC became operational, the management and records of public land being handled by the then-existing Ministry of Lands and other relevant government bodies. The NLC's mandate, which includes the power to review grants and dispositions of public land issued before August 27, 2010, only began after it was fully constituted in 2013.
96. This therefore means as the Petitioners have stated that the NLC should have acknowledged the letter written by the Petitioner and collaborated with Ministry and the relevant government agencies to retrieve the data that was being sought by the Petitioners.
97. There is never a transition in government that creates a vacuum and so NLC has taken over from the Ministry in the new Constitutional dispensation and it was handling the new function of considering grants made over public land at the National Government Level and within County Governments – essentially handling public land of the two levels of governments.
98. The 1st and 3rd Respondents and also the 2nd Respondent were of the view that the information being sought by the Petitioners will divulge private information relating to those who own land and their addresses et al and this will violate the privacy of an individual. That Article 24 of the [Constitution](#) provides that the access to information is not absolute and Section 6 (1) (d) protects the individual



privacy where disclosure of information may involve unwarranted invasion of privacy. Further the 1st and 3rd Respondents also stated that they are not obliged to provide information that can be reasonably accessed by other means as provided under Section 6(6) of the [Access to Information Act](#) and also that the Petitioner can obtain the information sought from the Land Registry.

99. In [Trusted Society of Human Rights Alliance v. National Land Commission & 2 Others](#) [2016] eKLR (High Court Petition No. 28 of 2015) citizens and Civil Society organizations sued government entities, including the National Land Commission (NLC), for refusal to provide information on public land grants.
100. The Petitioner in the above referenced case sought orders to compel the NLC and the Cabinet Secretary to provide the public with comprehensive information regarding all grants and dispositions of public land made since independence. The demand was based on the constitutional right to access information held by the State (Article 35) and the principles of transparency and accountability regarding land management.
101. The Court issued mandatory orders compelling the NLC and the Cabinet Secretary to prepare, publicize, and continuously update a full inventory of all public land in Kenya. The Court affirmed that the government had a constitutional obligation to provide this information to the public under Article 35. The Judgment emphasized that the public has a right to know how public land is being managed and that access to this information is vital for accountability
102. From the submissions made by the parties especially the 1st and 3rd Respondents who chose to run to the issue of unwarranted invasion of privacy of an individual, I am of a different viewpoint. What the Petitioners are seeking is information on public land grants. That to me means that the land is public and so if anyone get to be allotted the land that information must be public everything about the process is public and must remain public the process leading to the allotment must be a public process involving the public because the land belongs to the public.
103. I therefore cannot emphasize enough the “publicness” (if there be such a word) of the entire process. Further, the NLC is the public institution that was mandated under the [NLC Act](#) of 2013 to deal with the Public Land Grants and so whereas the Land Registrar keeps records the Petitioners sought the information from NLC and if there was any information needed from the Registrar, the Petitioners will come to that when the time comes.
104. So, in my very humble and honest view, the 1st and 3rd Respondents have not provided a proper justification for the denial of information sought by the Petitioners. The 2nd Respondent has made on their part sought to aid the 1st and 3rd Respondents in their adamant approach on failure to perform their function. The 2nd Respondents needs to familiarize itself thoroughly with the Constitutional provisions on the Access to Information plus its attendant Act and most importantly the law relating to public land and grants.
105. I understand the Petitioner’s request to be seeking information on the agreements, deeds, conveyance or documents in land grants and or dispositions reviewed in Kiambu County in line with Article 68 (c) (v) of the [Constitution](#) as at 27/08/2010 and effective 28/09/2010.
106. According Section 4 (2) of the [Access to Information Act](#) the right to the information is not affected by the reason the Petitioner might have given in requesting for information held by the State, in other words, the Petitioner needed not to have justified the request since the State is under duty to provide the information on request by a Citizen unless the State can validly justify its refusal to supply the information under Section 6 of the Act. In my view the state has not justified the non-supply except



in to a very limited way, that is unwarranted invasion of the privacy of an individual other than the Petitioner.

107. I will be failing if I do not refer to this decision from the Supreme Court which established the broader principle on access to information although it was not involving land in the case of *SC Petition 215 of 2020*, *The Institute for Social Accountability (TISA) & another v National Assembly & 18 others*, where the Supreme Court emphasized the importance of transparency in government operations, including those related to land, flowing from the values of the *Constitution*.
108. In the overall analysis, I find that the refusal to supply the information requested by the Petitioner violates the right of access to information under Article 35 (1) of the *Constitution* as well as the principle of openness and accountability in financial matters as provided for in Article 201(a) of the *Constitution* and generally, the principles of transparency and accountability provided for under Article 10 (2) (c) of the *Constitution*.
109. The upshot therefore is that this Petition succeeds. I grant the following reliefs:
- a. A declaration is hereby issued that that the provisions of Section 6(1) (d) of the *Access to Information Act* Cap 7M laws of Kenya does not limit the requirement on public entities to grant access to information to citizens of Kenya and which granting of access to information is a requirement in line with Article 33(1)(a), 35(1) (a) & 174(c) of the *Constitution* of Kenya 2010.
 - b. An order of Judicial Review in the nature of Certiorari do hereby issue removing into this Honorable Court the decision of the Commission on Administrative Justice dated 30th October 2023 and quashing it.
 - c. A declaration is hereby issued that that the groups of the Petitioners herein are each entitled to access to the information they sought on 27th July 2023 from the 1st Respondent as a right.
 - d. A declaration is hereby issued that the right of the groups of the Petitioners herein to Access to information under Article 35(1) (a) of the *Constitution* of Kenya has been violated by the Respondents.
 - e. A declaration is hereby issued that the right of the group of the Petitioner herein to a Fair Administrative Action that is lawful, reasonable and procedurally fair under Article 47 of the *Constitution* of Kenya 2010 has been infringed by the 2nd Respondent.
 - f. A declaration do hereby issue that the right of the group of the Petitioner has been violated by the 1st and 3rd Respondents.
 - g. I do hereby issue a Mandatory Injunction to compel the 1st Respondent to forthwith grant the group of the Petitioner herein access to the information that they sought on 27th July 2023, at the Respondents' cost.
 - h. I award to the group of Petitioner general damages together with exemplary damages of Kesh 1,000,000 to be borne by the Respondents jointly and severally.
 - i. Cost of the Petition is awarded to the Group of Petitioner.

Orders Accordingly.

DATED, SIGNED AND DELIVERED AT THIKA THROUGH MICROSOFT TEAMS ON THIS 3RD DAY OF NOVEMBER, 2025.



.....

MOGENI J

JUDGE

In the presence of:-

Mr. James Gacheru Kariuki the Petitioner

Ms. Kisengese for the 1st Respondent

Ms. Musembi for the 2nd Respondent

Ms. Kisengese for the 3rd Respondent

Mr. Melita – Court Assistant

